

Notice of Allowability

Application No.

09/811,754

Examiner

Jennifer J Maynard

Applicant(s)

ED SCHULER, CHRISTOPHER

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06 May 2004.
2. ☒ The allowed claim(s) is/are 1 and 3-11.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date attached hereto.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Ms. Kimberly O. Snead on 09 August 2004.

The application has been amended as follows:

In the Specification, on Page 7, lines 7-8, "Preferably, the *S. hyalurolyticus* hyaluronidase activity is in the range of about 100-300 TRU per mL, as noted in the example above (152 to 218 TRU per mL)."; has been deleted.

In Claim 9, line 2, "100-300" has been deleted and replaced with --152-218--.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: The prior art of record does not adequately disclose or fairly suggest a method of treating eye disorders comprising the step of applying essentially protease-free hyaluronidase from *Streptomyces hyalurolyticus* to the eye, wherein said hyaluronidase is dissolved in a saline solution, and wherein said treating of an eye disorder is the stimulating of flow of physiological fluids in the eye which comprises contacting a physiological fluid of the eye with said hyaluronidase using an amount of hyaluronidase sufficient to stimulate the flow of said fluid. The closest prior art, Invest Ophthalmol Vis Sci 1984 Mar; 25(3):286-93, "Exogenous hyaluronidases and degradation of hyaluronic acid in the rabbit eye.";

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Knepper PA, Farbman M, Telser AG..., discloses that *streptomyces* hyaluronidase is more effective than testicular hyaluronidase in decreasing aqueous outflow resistance and that hyaluronic acid is an important GAG contributor to aqueous outflow resistance in the normal rabbit eye, however as Applicant's arguments on Page 6 of the response filed May 6, 2004 sets forth, aqueous flow does not refer to the general stimulation of physiological fluid flow in the eye, as recited in the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on Mondays-Fridays 9:30 AM-5:30 PM; 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J Maynard



BRIAN L. CASLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700